

Introduced by Senators Escutia, Ducheny, Simitian, and Soto
(Coauthors: Assembly Members Huff and Nunez)

May 12, 2005

Senate Joint Resolution No. 13—Relative to railroad safety.

LEGISLATIVE COUNSEL'S DIGEST

SJR 13, as introduced, Escutia. Railroad Safety

This measure would urge the President and the Congress of the United States to amend the Federal Railroad Safety Act to allow state and local regulation, so long as the state or local regulation does not conflict with federal law, nor impose an unreasonable burden on interstate commerce.

Fiscal committee: no.

1 WHEREAS, The transportation of freight and passengers by
2 railroad has been an integral part of California's economic
3 infrastructure for nearly 150 years, and remains central to a
4 vibrant economy that Californians hope to continue to enjoy in
5 the 21st century; and

6 WHEREAS, The regulation of railroad operations is a major
7 objective of California government in order to ensure and
8 promote the health and safety of California's communities and its
9 residents; and

10 WHEREAS, There has been a significant increase in the past
11 10 years in the number of derailments and accidents on
12 California railways, resulting in injuries, death, and damage
13 within communities where railways exist, and leading to growing
14 attention and concern throughout the country; and

15 WHEREAS, The Federal Railroad Safety Act, was intended to
16 promote safety in every area of railroad operations and reduce

1 railroad-related accidents and incidents, and has sharply
2 restricted the authority of California and the other states to
3 address rail safety issues, through a broad preemption of state
4 laws; and

5 WHEREAS, The Federal Railroad Safety Act nevertheless
6 was intended to provide for cooperative state and federal activity
7 to prevent accidents and reduce their severity when they do
8 occur, including allowing states to act where federal officials
9 have not, providing concurrent state safety jurisdiction over
10 railroads at essentially local safety hazards within states, and
11 authorizing delegations of authority to state officials by the
12 Federal Railway Administration; and

13 WHEREAS, Federal courts have consistently failed to find
14 local safety hazards that would permit California to effectively
15 regulate railway safety so as to anticipate and prevent accidents;
16 and

17 WHEREAS, The Federal Railroad Administration has failed to
18 institute the necessary rulemakings to develop safety regulations
19 that fully protect California's communities and their residents
20 from railroad derailments, hazardous materials spills, and
21 highway-rail crossing accidents that result in injuries, death, and
22 damage within communities where railways exist; and where the
23 Federal Railroad Administration has exercised jurisdiction, it has
24 precluded states from providing the public with greater safety
25 protections and from reducing the number and severity of
26 railroad derailments, hazardous material spills, and highway-rail
27 crossing accidents within their jurisdictions; and

28 WHEREAS, The federal government has failed to develop
29 comprehensive plans to protect the public health and safety and
30 to effectively fund railway safety programs; and

31 WHEREAS, California has a history of working with the
32 Federal Railroad Administration in coordinating inspections, and
33 has established and funded extensive railway safety programs;
34 and

35 WHEREAS, There now exists a clear need to amend federal
36 law in order to empower California officials to protect the public
37 health and safety and to continue to build on the cooperation
38 between California and federal rail safety officials; now,
39 therefore, be it

1 *Resolved by the Senate and the Assembly of the State of*
2 *California, jointly,* That the Legislature of the State of California
3 urges the President and the Congress of the United States to
4 amend the Federal Railroad Safety Act to increase the authority
5 of state and local governments to enact railroad safety regulations
6 providing greater protection for their residents from railroad
7 derailments, hazardous materials spills, and highway-rail
8 crossing accidents, so long as the state enactments, rules, or
9 regulations do not conflict with federal law and do not impose an
10 unreasonable burden on interstate commerce; and be it further

11 *Resolved,* That the Federal Railroad Administration is urged to
12 work cooperatively with California and the railroad corporations
13 by increasing its staff and funding, and by delegating additional
14 authority to California officials to promulgate and enforce
15 standards relating to railway track, operations, and equipment
16 that will prevent and reduce the severity of accidents,
17 derailments, and hazardous material spills; and be it further

18 *Resolved,* That the Secretary of the Senate transmit copies of
19 this resolution to the President and Vice President of the United
20 States, and to each Senator and Representative from California in
21 the Congress of the United States.